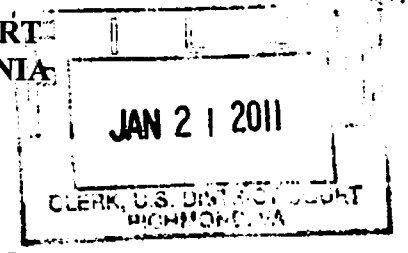


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



ANTHONY JO-ALLEN McCOY,

Plaintiff,

v.

Civil Action No. 3:10CV573

UNKNOWN,

Defendant.

**MEMORANDUM OPINION**

By Memorandum Order entered on September 14, 2010, the Court directed Plaintiff to complete and return an *in forma pauperis* affidavit and consent to collection of fee form to the Court within thirty (30) days of the date of entry thereof. By Memorandum Opinion and Order entered on November 16, 2010, the Court dismissed without prejudice the present action because Plaintiff failed to return the *in forma pauperis* affidavit and consent to collection of fee form in a timely fashion. Subsequent to the dismissal of his case, on November 24, 2010, the Court received the *in forma pauperis* affidavit and consent to collection of fee form from Plaintiff. On December 13, 2010, Plaintiff executed and presumably mailed to the Court a motion under Federal Rule of Civil Procedure 59(e) seeking reconsideration of the November 16, 2010 Memorandum Opinion and Order. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (concluding that prisoner's notice of appeal was deemed filed on the date he handed it to prison officials for mailing to the court).

"[R]econsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly." *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (internal quotation marks omitted). Relief under Rule 59(e) is appropriate "(1) to accommodate

an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771 F. Supp. 1406, 1419 (D. Md. 1991); *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)). Plaintiff fails to demonstrate how he satisfies any of the circumstances for granting Rule 59(e) relief. Accordingly, Plaintiff’s Rule 59(e) motion (Docket No. 11) will be DENIED.

Because the Court dismissed the action without prejudice, Plaintiff is free to refile the complaint in this matter as a new action.

An appropriate Order shall issue.

Date: 1-19-11  
Richmond, Virginia

<p style="text-align: center;">_____ /s/ James R. Spencer Chief United States District Judge</p>
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